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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/552,756	06/20/2006	Lothar Mueller	GK-ZEI-3294/50343.20315	2601
26418	7590	11/16/2007		
REED SMITH, LLP ATTN: PATENT RECORDS DEPARTMENT 599 LEXINGTON AVENUE, 29TH FLOOR NEW YORK, NY 10022-7650			EXAMINER GREECE, JAMES R	
			ART UNIT 2873	PAPER NUMBER
			MAIL DATE 11/16/2007	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/552,756	Applicant(s) MUELLER ET AL.	
	Examiner James R. Greece	Art Unit 2873	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 20 August 2007.
 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 8-14 is/are pending in the application.
 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
 5) ☐ Claim(s) _____ is/are allowed.
 6) ☒ Claim(s) 8-14 is/are rejected.
 7) ☐ Claim(s) _____ is/are objected to.
 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
 10) ☒ The drawing(s) filed on 11 October 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 a) ☒ All b) ☐ Some * c) ☐ None of:
 1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
 * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

Detailed Action

Applicant cooperation is requested in correcting any errors of which applicant may become aware in the specification.

Status of the Application

Claims 8-14 are pending in this application

If the applicant is aware of any prior art or any other co-pending application not already of record, he/she is reminded of his/her duty under 37 CFR 1.56 to disclose the same.

Drawings

There are no objections to applicant's drawings at this time.

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

3. Claims 8-11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Mecklenborg et al (USPAT 3,985,422).

In regard to claim 8, Mecklenborg et al discloses:

A lens system of at least four lenses; (See figure 7) at least two lenses of these at least four lenses being tilted with respect to their optical axes relative to the illumination beam path and imaging beam path; (See figure 7, B and C or D and E) the optical axes of said two lenses and optical axis of the illumination beam path and imaging beam path lying in a first plane; (See figure 7, B and C or D and E) at least two other lenses of the at least four lenses being tilted with respect to their optical axes relative to the illumination beam path and imaging beam path; (See figure 7, B and C or D and E) and the optical axes of the two other lenses and optical axis of the illumination beam path and imaging beam path lying in a second plane which intersects the first plane substantially along the optical axis of the illumination beam path and imaging beam path (See figure 7, B and C or D and E).

In regard to claim 9, Mecklenborg et al discloses:

Wherein the first plane and the second plane extend substantially perpendicular to one another (See figure 7, B and C or D and E)

In regard to claim 10, Mecklenborg et al discloses:

Wherein the optical axis of the illumination beam path and imaging beam path penetrates the lenses outside their optical axes (See figure 7, B and C or D and E)

In regard to claim 11, Mecklenborg et al discloses:

Wherein the optical axes of the lenses are arranged outside the beam bundle of the illumination beam path and imaging beam path (See figure 7, B and C or D and E)

Although Mecklenborg et al does not explicitly teach its device in a Fundus camera, this intended use is recited in the applicant's claim preamble and a preamble is generally not accorded

any patentable weight where it merely recites the purpose of a process or the intended use of a structure, and where the body of the claim does not depend on the preamble for completeness but, instead, the process steps or structural limitations are able to stand alone. See *In re Hirao*, 535 F.2d 67, 190 USPQ 15 (CCPA 1976) and *Kropa v. Robie*, 187 F.2d 150, 152, 88 USPQ 478, 481 (CCPA 1951).

4. Claim 12 is rejected under 35 U.S.C. 103(a) as being unpatentable over Mecklenborg et al (USPAT 3,985,422) as applied to claim 8 above, and further in view of Howell (USPAT 2,978,956).

In regard to claim 12 Mecklenborg et al fails to explicitly disclose as claimed:
The lenses comprise lens segments.

However Howell discloses lenses comprising lens segments (See Howell figure 1.)

It would have been obvious to one having ordinary skill in the art of lens device design at the time of the invention was made to utilize a lens or lenses comprising lens segments as taught by Howell in the device of Mecklenborg et al since Howell states in column 1, line 22-25 that such a modification would provide the predictable result of a lens system having broader spectral transmittance than is achievable through the employment of a standard lens single lens element.

5. Claim 13 is rejected under 35 U.S.C. 103(a) as being unpatentable over Mecklenborg et al (USPAT 3,985,422) as applied to claim 8 above, and further in view of Humphrey (USPAT 4,730,910).

In regard to claim 13, Mecklenborg et al does not explicitly teach the following as claimed:

Wherein at least one of the lenses has an aspheric surface.

However Humphrey teaches this limitation (for details see figure 3G lens A as one of the examples in Humphrey.)

It would have been obvious to one having ordinary skill in the art of optical design to modify the device of Mecklenborg et al to include at least one aspheric lens as taught by Humphrey for the predictable result of providing substantial balance of all aberrations, dispersions and absorptions to the extent of preserving essentially symmetrical optical performance.

6. Claim 14 is rejected under 35 U.S.C. 103(a) as being unpatentable over Mecklenborg et al (USPAT 3,985,422).

In regard to claim 14, Mecklenborg et al fails to explicitly disclose the following as claimed:

Wherein at least one lens is replaced by a diffractive optical element.

However the examiner takes official notice to the fact that the use of diffractive elements is well known in the art of fundus camera design and would have been an obvious design choice for one having ordinary skill in the art. A reference supporting this notice is USPAT 2,586,973.

Response to Arguments

7. Applicant's arguments with respect to claims 8-14 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

8. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to James R. Greece whose telephone number is 571-272-3711. The examiner can normally be reached on M-Th 7:30-6.

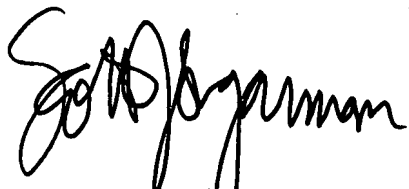
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ricky Mack can be reached on 571-272-2333. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

James R Greece
Patent Examiner
571-272-3711



Scott J. Sugarman
Primary Examiner